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SERVICE DATE – SEPTEMBER 24, 2012

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 290 (Sub-No. 336X)]

Norfolk Southern Railway Company—Abandonment and Discontinuance of Service
Exemption—In Lake County, Ind., and Cook County, Ill.

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments and Discontinuances of Service for NSR to abandon approximately 6.30 miles of rail line (the Eastern Line Segment) located in Lake County, Ind., and Cook County, Ill., and to discontinue service over a contiguous line segment of approximately 1.2 miles (the Western Line Segment) located in Cook County, Ill.¹ The roughly 6.30-mile Eastern Line Segment extends from milepost JH 12.80 (near the Eastern Line Segment's crossing of Eagle Ridge Drive) in Schererville, Ind., to milepost JH 19.10 (near the Eastern Line Segment's crossing of Cottage Grove Avenue) in Ford Heights, Ill. The roughly 1.2-mile Western Line Segment extends from milepost JH 19.10 (near Cottage Grove Avenue) in Ford Heights, Ill., to milepost JH 20.30 (near State Street) in Chicago Heights, Ill.

The Line traverses United States Postal Service Zip Codes 46375, 46311 and 60411. NSR states that it has filed this notice of exemption to facilitate the construction

¹ The Eastern Line Segment and the Western Line Segment, which are commonly known as the Hartsdale Industrial Track, will be referred to collectively as the Line.

by Canadian National Railway Company (CN) and Elgin, Joliet & Eastern Railway (EJ&E) of a grade separation over U.S. Route 30, a project upon which the Surface Transportation Board (Board) conditioned its approval of CN's acquisition of control of EJ&E² and which is in close proximity to the Line.

Applicants have certified that: (1) no local traffic has moved over the Line for at least 2 years; (2) no overhead traffic has moved over the Line for at least 2 years and overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 C.F.R. § 1105.7(c) (environmental report), 49 C.F.R. § 1105.11 (transmittal letter), 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment or discontinuance shall be protected under Oregon Short Line—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

² Canadian Nat'l Ry. and Grand Trunk Corp.—Control—EJ&E W. Co., FD 35087 (STB served Dec. 24, 2008).

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 24, 2012, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,³ formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),⁴ and trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by October 4, 2012. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by October 15, 2012, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to applicants' representatives: Robert A. Wimbish, Baker & Miller PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemptions are void ab initio.

Applicants have filed a combined environmental and historic report that addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. OEA will issue an environmental assessment (EA) by September 28, 2012. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100,

³ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

⁴ Each OFA must be accompanied by the filing fee, which is currently set at \$1,600. See 49 C.F.R. § 1002.2 (f)(25).

Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA, at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of consummation by October 24, 2013, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: September 18, 2012.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.